

REMARKS

This Amendment is in response to the Office Action dated **July 26, 2007** and is being filed concurrently with an RCE and a Supplemental IDS. Each issue in the Office Action is addressed below.

Claim Objections

(1)

The numbering of the claims was objected to because, in the numbering of the claims, claims 27-28 were skipped. It is stated in the objection after pointing out the objectionable material that “[m]isnumbered claims 29-36 have been renumbered 27-34.” In the above amendments, Applicant has amended the dependencies accordingly. The claim numbers are also shown as amended to aid in the identification of the amended dependencies.

It appears in the Office Action that the rejections address the claims as they were numbered prior to the renumbering. As such, the following remarks are written in the assumption that that is the case.

§112 Rejections

(2)

Claim 31 (now claim 29) was rejected under 35 USC §112, first paragraph, as failing to comply with the enablement requirement. It is asserted that claim 31 (29) recites the limitation that the valve according to claim 2 is a two-way valve, however claim 2 recites the limitation that the valve of claim 1 is a one-way valve. It is further asserted one-way and two-way valves are mutually exclusive; therefore the claimed progression is not enabled. For the purposes of examination, claim 31 (29) was taken to depend from claim 1 directly.

In response, claim 31, now claim 29, has been amended to depend upon claim 1.

§102 Rejections

(3)

Claims 1, 2, 4, 7 and 32 were rejected under 35 USC §102(b) as being anticipated by Anderson (US 2002/0009240). A full account of the rejection is found in numbered paragraph

3 of the Office Action.

Although Applicant disagrees, claim 1 has been amended to incorporate the subject matter of claim 5, which was not seen as being anticipated by Anderson. As such, withdrawal of the rejection is respectfully requested.

(4)

Claims 1, 2, 7, 23-24, 26, 29-31 and 33-34 were rejected under 35 USC §102(b) as being anticipated by Savicki (WO 02/076258 A1). A full account of the rejection is found in numbered paragraph 4 of the Office Action.

Although Applicant disagrees, claim 1 has been amended to incorporate the subject matter of claim 5, which was not seen as being anticipated by Savicki. Independent claim 33 (31) has been similarly amended. As such, withdrawal of the rejection is respectfully requested.

§103 Rejections

(5)

Claim 3 was rejected under 35 USC §103(a) as being unpatentable over Savicki (WO 02/076258) in view of Ostensen et al. (US 4725268). A full account of the rejection is found in numbered paragraph 5 of the Office Action.

Although Applicant disagrees, claim 1 has been amended to incorporate the subject matter of claim 5, which was not seen as being anticipated by Anderson. As such, withdrawal of the rejection is respectfully requested.

(6)

Claims 4-6 and 35-36 were rejected under 35 USC §103(a) as being unpatentable over Savicki (WO 02/076258) in view of ErkenBrack (US 6964519). A full account of the rejection is found in numbered paragraph 6 of the Office Action.

Although Applicant disagrees with the rejection, independent claims 1 and 35 (33) have been amended to further distinguish them from the cited references.

As to the combination of Savicki and ErkenBrack, it is asserted in the rejection that it would have been obvious to one of ordinary skill in the art at the time of invention to create

the valve of Savicki in the shape taught by ErkenBrack (Figure 13) in order to attach a removable suction device to remove the air from inside the bag.

Applicant respectfully disagrees. ErkenBrack discloses a bag with a first opening having a zipper closure, and a second opening with a coupler 16. This coupler comprises a unidirectional valve and is included in one of the *sidewalls* for coupling the bag to a vacuum source to evacuate fluid from an interior of the bag. Coupler 16 includes a quick connect/disconnect head end 7 for accepting an end of tube 24 coupled to a vacuum source (not shown). The coupler extends through a pane ('sidewall') of the bag, as shown below:

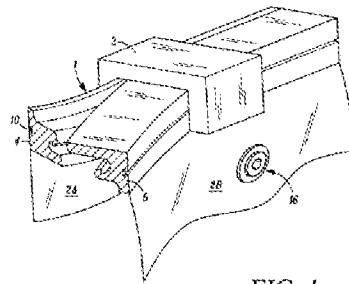


FIG. 1

The coupler is described, among other places, column 8, line 62, to column 9, line 31, and shown below:

FIG. 13

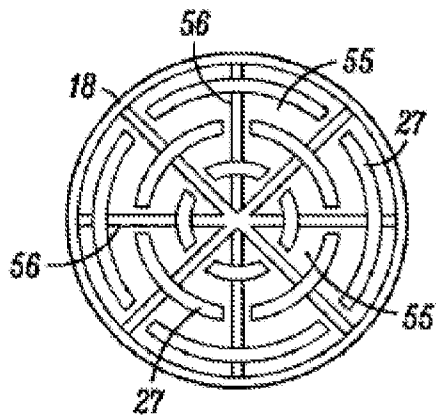
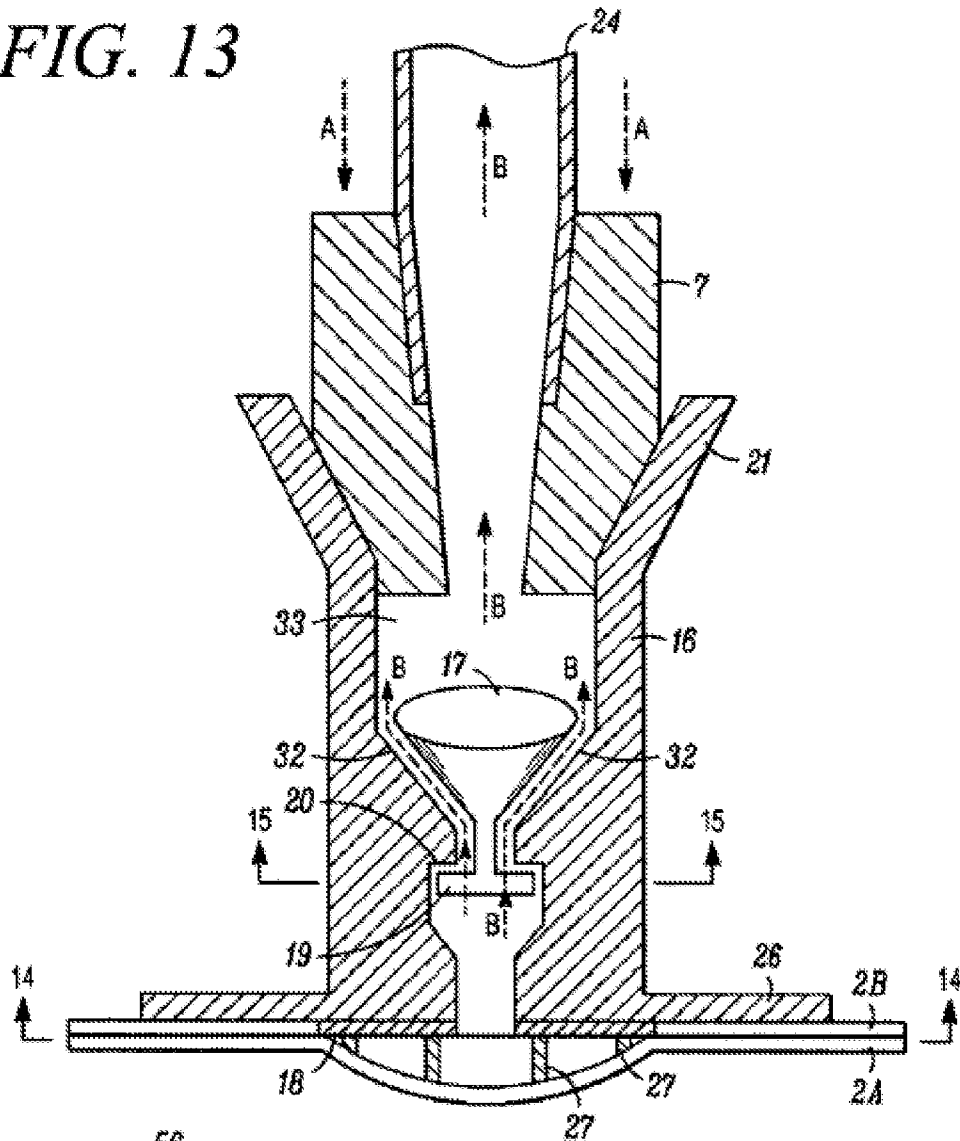


FIG. 14

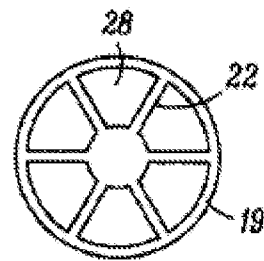


FIG. 15

The coupler 16, which includes a valve, of ErkenBrack is designed to be placed in the side wall of a bag. It is circular and contains features, namely, circular sectional fin-like spacer projections or vanes 27, whose job it is to space the opposing side of the bag away from the passageway to prevent the passageway from being blocked. Such a feature is not required in the slider of Savicki. It would not have been obvious to make the asserted combination at least for the reason that the reason for the design of the coupler is not an issue in Savicki. Such a design and feature are not compatible with the gilder and there would be no expectation of success.

Erkenbrack and Savicki both disclose resealable bags with two opposing side panes. If one wanted to take the resealable bag of Savicki and incorporate a valve that is in the shape of the Erkenbrack coupler 16, the teachings of the references would lead one to position the Erkenbrack shaped coupler in one of the side panes of Savicki, as specifically taught by Erkenbrack (shown above). It would not have been obvious to go against the clear teachings of Erkenbrack and take a coupler designed and shaped to be placed in a side pane of a bag and somehow alter its design and shape so that it could be incorporated into the slider of Savicki. Even hindsight does not clearly explain how or if such a retrofit would work. The coupler of Erkenbrack was shaped to function at a certain position in the bag. It would not have been obvious to pick the coupler because of its shape and locate it in a bag in a position other than that position for which it was designed and shaped.

For the above reasons, it is respectfully requested that the rejections be withdrawn.

(7)

Claim 25 was rejected under 35 USC §103(a) as being unpatentable over Savicki (WO 02/076258) in view of Plourde (US PG-Pub 2003/0235351). A full account of the rejection is found in numbered paragraph 7 of the Office Action.

Although Applicant disagrees with the rejection, independent claim 1, on which claims 25 depends, has been amended to further distinguish it from the cited references.

The application should now be in condition for allowance. Allowance is therefore earnestly solicited. If the Examiner would like to further discuss the case, he is encouraged to

contact the undersigned.

Respectfully submitted,

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